# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/815,520 | 03/23/2001 | Myron Mosbarger | 03882.008 | 7505 |

7590     05/07/2004

PARSONS BEHLE & LATIMER
Suite 1800
201 South Main Street
Salt Lake City, UT 84111-2218

| EXAMINER |
|---|
| TRAN, PHILIP B |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2155 | 16 |

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on _12 February 2004_.

2a)☐ This action is **FINAL**.          2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) _41-104_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _40-104_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

## DETAILED ACTION

### *Request for Continued Examination*

1.    A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/21/2004 has been entered.

2.    Amendment C, received on 2/12/2004, has been entered. Claims 41, 51, 61, 69, 79, 86, 93 and 99 have been amended. Therefore, claims 41-104 are presented for further examination.

### *Double Patenting*

3.    The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application.  See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.  A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1.    Claims 41-104 of the instant application is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over some claims of Thomasson et al (Hereafter, Thomasson), U.S. Patent No. 6,205,473 in view of Carter et al (Hereafter, Carter), U.S. Patent No. 65,987,506. Although the conflicting claims are not identical, they are not patentably distinct from each other because modifications are obvious.

Regarding claim 41, claims 1 and 2 of U.S. Pat. No. 6,205,473 recites all limitations in claim 41 [see Col. 9, Lines 13-58].  It does not explicitly teach setting up RAM adapters, establishing a timestamp for a received packet, testing to determine if said packet will update a catalog, testing to determine if a site will be updated by said packet, determining whether an end-of-file has been encountered, determining if a file within said packet is incomplete and if said file is incomplete marking said file as complete. However, Carter, in the same field of managing the file system endeavor, discloses the directory file with files and timestamps and updating process  [see Carter, Col. 36, Lines 10-63]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate directory file updating with timestamp,

disclosed by Carter, into the system of communication downloading data and

maintaining data in a storage disclosed by Thomasson, because it would have enabled

the system to monitor and manage a plurality of files directories in a quicker and more

efficient manner by updating the information dynamically to the current status.


Regarding claim 42, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 42 [see Col. 9, Lines 13-40].


Regarding claim 43, claim 6 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 43 [see Col. 10, Lines 5-15].


Regarding claim 44, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 44 [see Col. 9, Lines 13-40].


Regarding claim 45, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 45 [see Col. 9, Lines 13-40].


Regarding claim 46, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 46 [see Col. 9, Lines 13-40].


Regarding claim 47, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 47 [see Col. 9, Lines 13-40].

Regarding claim 48, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 48 [see Col. 9, Lines 13-40].

Regarding claim 49, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 49 [see Col. 9, Lines 13-40].

Regarding claim 50, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 50 [see Col. 9, Lines 13-55].

Regarding claim 51, claims 1 and 2 of U.S. Pat. No. 6,205,473 recites all limitations in claim 51 [see Col. 9, Lines 13-58]. It does not explicitly teach setting up RAM adapters, establishing a timestamp for a received packet, testing to determine if said packet will update a catalog, testing to determine if a site will be updated by said packet, determining whether an end-of-file has been encountered, determining if a file within said packet is incomplete and if said file is incomplete marking said file as complete. However, Carter, in the same field of managing the file system endeavor, discloses the directory file with files and timestamps and updating process [see Carter, Col. 36, Lines 10-63]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate directory file updating with timestamp, disclosed by Carter, into the system of communication downloading data and maintaining data in a storage disclosed by Thomasson, because it would have enabled

the system to monitor and manage a plurality of files directories in a quicker and more efficient manner by updating the information dynamically to the current status.

Regarding claim 52, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 52 [see Col. 9, Lines 13-40].

Regarding claim 53, claim 6 of U.S. Pat. No. 6,205,473 recites all limitations in claim 53 [see Col. 9, Lines 13-40].

Regarding claim 54, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 54 [see Col. 10, Lines 5-15].

Regarding claim 55, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 55 [see Col. 9, Lines 13-40].

Regarding claim 56, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 56 [see Col. 9, Lines 13-40].

Regarding claim 57, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 57 [see Col. 9, Lines 13-40].

Regarding claim 58, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 58 [see Col. 9, Lines 13-40].

Regarding claim 59, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 59 [see Col. 9, Lines 13-40].

Regarding claim 60, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 60 [see Col. 9, Lines 13-55].

Regarding claim 61, claims 1 and 2 of U.S. Pat. No. 6,205,473 recites all limitations in claim 61 [see Col. 9, Lines 13-58]. It does not explicitly teach setting up RAM adapters, establishing a timestamp for a received packet, testing to determine if said packet will update a catalog, testing to determine if a site will be updated by said packet, determining whether an end-of-file has been encountered, determining if a file within said packet is incomplete and if said file is incomplete marking said file as complete. However, Carter, in the same field of managing the file system endeavor, discloses the directory file with files and timestamps and updating process [see Carter, Col. 36, Lines 10-63]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate directory file updating with timestamp, disclosed by Carter, into the system of communication downloading data and maintaining data in a storage disclosed by Thomasson, because it would have enabled

the system to monitor and manage a plurality of files directories in a quicker and more efficient manner by updating the information dynamically to the current status.

Regarding claim 62, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 62 [see Col. 9, Lines 13-40].

Regarding claim 63, claim 6 of U.S. Pat. No. 6,205,473 recites all limitations in claim 63 [see Col. 9, Lines 13-40].

Regarding claim 64, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 64 [see Col. 10, Lines 5-15].

Regarding claim 65, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 65 [see Col. 9, Lines 13-40].

Regarding claim 66, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 66 [see Col. 9, Lines 13-40].

Regarding claim 67, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 67 [see Col. 9, Lines 13-40].

Regarding claim 68, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 68 [see Col. 9, Lines 13-40].

Regarding claim 69, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 69 [see Col. 9, Lines 13-55].

Regarding claim 70, claims 1 and 2 of U.S. Pat. No. 6,205,473 recites all limitations in claim 70 [see Col. 9, Lines 13-58]. It does not explicitly teach setting up RAM adapters, establishing a timestamp for a received packet, testing to determine if said packet will update a catalog, testing to determine if a site will be updated by said packet, determining whether an end-of-file has been encountered, determining if a file within said packet is incomplete and if said file is incomplete marking said file as complete. However, Carter, in the same field of managing the file system endeavor, discloses the directory file with files and timestamps and updating process [see Carter, Col. 36, Lines 10-63]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate directory file updating with timestamp, disclosed by Carter, into the system of communication downloading data and maintaining data in a storage disclosed by Thomasson, because it would have enabled the system to monitor and manage a plurality of files directories in a quicker and more efficient manner by updating the information dynamically to the current status.

Regarding claim 71, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 71 [see Col. 9, Lines 13-40].

Regarding claim 72, claim 6 of U.S. Pat. No. 6,205,473 recites all limitations in claim 72 [see Col. 9, Lines 13-40].

Regarding claim 73, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 73 [see Col. 9, Lines 13-40].

Regarding claim 74, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 74 [see Col. 10, Lines 5-15].

Regarding claim 75, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 75 [see Col. 9, Lines 13-40].

Regarding claim 76, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 76 [see Col. 9, Lines 13-40].

Regarding claim 77, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 77 [see Col. 9, Lines 13-40].

Regarding claim 78, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 78 [see Col. 9, Lines 13-55].

Regarding claim 79, claims 1 and 2 of U.S. Pat. No. 6,205,473 recites all limitations in claim 79 [see Col. 9, Lines 13-58]. It does not explicitly teach setting up RAM adapters, establishing a timestamp for a received packet, testing to determine if said packet will update a catalog, testing to determine if a site will be updated by said packet, determining whether an end-of-file has been encountered, determining if a file within said packet is incomplete and if said file is incomplete marking said file as complete. However, Carter, in the same field of managing the file system endeavor, discloses the directory file with files and timestamps and updating process [see Carter, Col. 36, Lines 10-63]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate directory file updating with timestamp, disclosed by Carter, into the system of communication downloading data and maintaining data in a storage disclosed by Thomasson, because it would have enabled the system to monitor and manage a plurality of files directories in a quicker and more efficient manner by updating the information dynamically to the current status.

Regarding claim 80, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 80 [see Col. 9, Lines 13-40].

Regarding claim 81, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 81 [see Col. 9, Lines 13-40].

Regarding claim 82, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 82 [see Col. 9, Lines 13-40].

Regarding claim 83, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 83 [see Col. 9, Lines 13-40].

Regarding claim 84, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 84 [see Col. 9, Lines 13-40].

Regarding claim 85, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 85 [see Col. 9, Lines 13-40].

Regarding claim 86, claims 1 and 2 of U.S. Pat. No. 6,205,473 recites all limitations in claim 86 [see Col. 9, Lines 13-58]. It does not explicitly teach setting up RAM adapters, establishing a timestamp for a received packet, testing to determine if said packet will update a catalog, testing to determine if a site will be updated by said packet, determining whether an end-of-file has been encountered, determining if a file within said packet is incomplete and if said file is incomplete marking said file as complete. However, Carter, in the same field of managing the file system endeavor,

discloses the directory file with files and timestamps and updating process [see Carter,

Col. 36, Lines 10-63]. It would have been obvious to one of ordinary skill in the art at the

time of the invention was made to incorporate directory file updating with timestamp,

disclosed by Carter, into the system of communication downloading data and

maintaining data in a storage disclosed by Thomasson, because it would have enabled

the system to monitor and manage a plurality of files directories in a quicker and more

efficient manner by updating the information dynamically to the current status.

Regarding claim 87, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 87 [see Col. 9, Lines 13-40].

Regarding claim 88, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 88 [see Col. 9, Lines 13-40].

Regarding claim 89, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 89 [see Col. 9, Lines 13-40].

Regarding claim 90, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 90 [see Col. 9, Lines 13-40].

Regarding claim 91, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 91 [see Col. 9, Lines 13-40].

Regarding claim 92, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 92 [see Col. 9, Lines 13-40].

Regarding claim 93, claims 1 and 2 of U.S. Pat. No. 6,205,473 recites all limitations in claim 93 [see Col. 9, Lines 13-58]. It does not explicitly teach setting up RAM adapters, establishing a timestamp for a received packet, testing to determine if said packet will update a catalog, testing to determine if a site will be updated by said packet, determining whether an end-of-file has been encountered, determining if a file within said packet is incomplete and if said file is incomplete marking said file as complete. However, Carter, in the same field of managing the file system endeavor, discloses the directory file with files and timestamps and updating process [see Carter, Col. 36, Lines 10-63]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate directory file updating with timestamp, disclosed by Carter, into the system of communication downloading data and maintaining data in a storage disclosed by Thomasson, because it would have enabled the system to monitor and manage a plurality of files directories in a quicker and more efficient manner by updating the information dynamically to the current status.

Regarding claim 94, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 94 [see Col. 9, Lines 13-40].

Regarding claim 95, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 95 [see Col. 9, Lines 13-40].

Regarding claim 96, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 96 [see Col. 9, Lines 13-40].

Regarding claim 97, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 97 [see Col. 9, Lines 13-40].

Regarding claim 98, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in claim 98 [see Col. 9, Lines 13-40].

Regarding claim 99, claims 1 and 2 of U.S. Pat. No. 6,205,473 recites all limitations in claim 99 [see Col. 9, Lines 13-58]. It does not explicitly teach setting up RAM adapters, establishing a timestamp for a received packet, testing to determine if said packet will update a catalog, testing to determine if a site will be updated by said packet, determining whether an end-of-file has been encountered, determining if a file within said packet is incomplete and if said file is incomplete marking said file as complete. However, Carter, in the same field of managing the file system endeavor, discloses the directory file with files and timestamps and updating process [see Carter, Col. 36, Lines 10-63]. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate directory file updating with timestamp,

disclosed by Carter, into the system of communication downloading data and

maintaining data in a storage disclosed by Thomasson, because it would have enabled

the system to monitor and manage a plurality of files directories in a quicker and more

efficient manner by updating the information dynamically to the current status.

Regarding claim 100, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 100 [see Col. 9, Lines 13-40].

Regarding claim 100, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 100 [see Col. 9, Lines 13-40].

Regarding claim 101, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 101 [see Col. 9, Lines 13-40].

Regarding claim 102, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 102 [see Col. 9, Lines 13-40].

Regarding claim 103, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 103 [see Col. 9, Lines 13-40].

Regarding claim 104, claim 1 of U.S. Pat. No. 6,205,473 recites all limitations in

claim 104 [see Col. 9, Lines 13-40].

4.    A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET TO EXPIRE THREE MONTHS, OR THIRTY DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. FAILURE TO RESPOND WITHIN THE PERIOD FOR RESPONSE WILL CAUSE THE APPLICATION TO BECOME ABANDONED (35 U.S.C. § 133). EXTENSIONS OF TIME MAY BE OBTAINED UNDER THE PROVISIONS OF 37 CAR 1.136(A).

5.    Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (703) 308-8767. The Group fax phone number is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam, can be reached on (703) 308-6662.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

*Philip* Tran
Philip B. Tran
Art Unit 2155
Apr 30, 2004